

HIGHLAND BOARD OF ZONING APPEALS
Minutes of the Meeting of
March 22, 2017

The Highland Board of Zoning Appeals met on March 22, 2017 in the meeting room of the Municipal Building, 3333 Ridge Road, Highland IN. Mrs. Murovic called the meeting to order at 6:30 p.m. The meeting opened with the Pledge of Allegiance led by Mr. Martini.

ROLL CALL: Present Mr. Mileusnich, Mr. Grzynski, Mr. Martini, and Mrs. Murovic. Also present Attorney Jared Tauber, Building Commissioner Mr. Ken Mika and Town Council Liaison Steve Wagner.

MINUTES: The minutes of the February 22, 2017 were approved as posted.

ANNOUNCEMENTS: The next meeting of the Board of Zoning Appeals to be April 26, 2017

COMMUNICATION: 2nd Continued Public Hearing request from Cosme & Jacqueline Herrera. They are still in the process of getting a plat of survey for their property. Communication via email on March 13, 2017.

Old Business: Approval of Findings for Joe & Sheila Windsor, 9009 Arbor Hill Dr., Highland, In., represented by Gary Torrenga of Torrenga Engineering, 907 Ridge Rd., Munster, IN requesting a variance to exceed accessory structure allowance at the location of 3722 38th St. {HMC 18.05.060 (F)(5)} In Zoning District R-1A, R-1, R-2, or R-3. The summation of the gross floor area of all accessory structures shall not exceed the gross floor area of the principal structure, or 720 square feet, whichever is less. Mr. Martini motioned to approve the Findings of Fact. Mr. Mileusnich seconded and unanimously passed with a roll call vote of 4-0.

Approval of Findings of Fact for 2nd & Charles, 10239 Indianapolis Blvd., represented by All Right Sign, 3628 Union Ave, Steger, IL 60475 and Ms. Melanie Smith of 2nd & Charles, 402 Industrial Lane, Birmingham, AL., requesting a variance to exceed sign allowance and sign square footage at the location of 10239 Indianapolis Blvd. {HMC 18.85.080 (G)(2)(a)} Each occupancy shall be permitted a maximum of one sign. Per blanket variance granted in May of 1993 to the shopping center (Highland Grove): For any use having a structure frontage of less than 300 linear feet, two (2) square feet of sign area for each front foot or portion thereof of structure frontage. Sign sq. ft. allowed would be 180 sq. ft. per original variance, asking for total of 271 sq. ft. for the (3) signs proposed. Mr. Martini motioned to approve the Findings of Fact. Mr. Mileusnich seconded and unanimously passed with a roll call vote of 4-0.

Public Hearing for Latoya & Joseph McDaniel, 7538 Woodlawn Ave., Hammond, IN requesting a Use Variance for a Day Care/Educational Facility at the location of 9219 Indianapolis Blvd., Suite A. {HMC 18.45.030} The following listed uses and no others are permitted uses in a B-3 district: Permitted uses do not include day care

Mr. Tauber stated that the Proofs of Publication were in compliance with IC 5-3-1.

Mr. & Mrs. McDaniel introduced themselves and distributed their presentation packet along with a diagram of the facility they are hoping to open as a daycare/education facility located at 9219 Indianapolis Blvd.

Mrs. McDaniel states Train Up A Child daycare currently is a State licensed home based daycare facility located at their home residence address of 7538 Woodlawn Ave., Hammond, IN. They are looking to expand the daycare facility to a second location at 9219 Indianapolis Blvd.

The hours of operation are Monday thru Friday, 6:00 a.m. to 11:00 p.m. with weekends available upon request. The ages of the children at the daycare run from six (6) weeks – fourteen (14) years old. The license capacity of the daycare center is twelve (12) non-school aged children and three (3) school aged children for a total of fifteen children. The program consists of quality education, physical education, arts and crafts, Spanish and music.

Mrs. McDaniel referenced the floor plan in their presentation packet. The floor plan for the daycare was broken down into the ground floor for the daycare activities along with a kitchen for the cooking and eating area, the 2nd level would be the office/break room, the basement for storage and the outside area that will be fenced in for outside playtime.

Mrs. McDaniel pointed out the diagram also referenced how far back the facility sat from Indianapolis Blvd. Mr. McDaniel spoke of the distance as being far away enough to provide a safe distance for the children from the facility to Indianapolis Blvd. Mrs. McDaniel referenced the diagram and where the fence would be between the two (2) buildings.

Mrs. Murovic opened the Public hearing. Hearing no remonstrances she closed the Public hearing.

Mr. Mileusnich asked if the building would be used only for the daycare and not for a residence. Mr. McDaniel replied just a daycare facility.

Mrs. Murovic inquired to the drop off plan for the children. Mrs. McDaniel referenced the site plan and how Indianapolis Blvd. runs north and south. She said if the vehicles are going north on Indianapolis Blvd. they would make a right hand turn off of Indianapolis into the parking lot and to the left, which is right in front of the house are parking spaces. She said the parents will escort their children from the lot into the daycare center and the parents will have to sign in.

Mrs. Murovic asked if the parking space in front of the facility would be designated for only the daycare and Mr. McDaniel responded a particular amount. Mrs. Murovic also inquired if there would be any protection or buffers between the cars and the sidewalk to keep the vehicles away from the facility and the children. Mrs. McDaniel replied not presently but that they would have buffers installed.

Mrs. Murovic asked if the facility had State approval already. Mrs. McDaniel states they cannot get State approval until after the fence is installed. Mrs. Murovic asked how large the fenced in area would be and Mrs. McDaniel replied around 600 sq. ft.

Mrs. Murovic inquired as to how many staff would be on hand. Mrs. McDaniel replied two (2) full time staff at all times. Mrs. Murovic asked about State requirements regarding ratio of staff to children. Mrs. McDaniel replied it went by ages.

Mrs. Murovic asked about the stairwells in the facility going up and down and what safety features there would be for the children and Mrs. McDaniel responded there would be child safety locks on all the doors.

Mr. Mileusnich asked if there would be any other business in the building and Mr. McDaniel replied only the daycare facility.

Mr. Grzynski motioned to make a Favorable recommendation for the Use Variance to the Town Council contingent on the fencing being installed and parking blocks installed between the parking lot and sidewalk in front of the building. Mr. Martini seconded and unanimously passed with a roll call vote of 4-0.

Public Hearing for Ron & Jan Van Kampen, 7425 Falling Leaf Circle, Schererville, IN, requesting a variance for minimum lot size requirement for overall lot size, width and side yard setback from 7.5' to 5', including 5' drainage easement on west side of property, for potential residential property to be built on vacant lot for the location of 3425 Laverne Dr. {HMC 18.15.060 (C)1(a)} Every one-family detached dwelling hereafter erected and every transitional use permitted in this zoning district hereafter established shall be on a zoning lot having a minimum area of 8,400 square feet and a minimum width of 70 feet at the building line, and a minimum lot depth of 120 feet. A lot of record existing on the effective date of the ordinance codified in this title which is less than 8,400 square feet in area or less than 70 feet in width, or 120 feet in depth, may only be improved by a variance from the board of zoning appeals. {HMC 18.15.060 (H)(1) For One-Family Detached Dwellings. On a lot improved with a one-family detached dwelling, a side yard shall be provided along each side lot line. No side yard shall be less than eight feet in width in an R-1A district, and seven and one-half feet in width in an R-1 district.

Mr. Tauber stated that the Proofs of Publication were in compliance with IC 5-3-1.

Mr. & Mrs. Van Kampen introduced themselves.

Mrs. Murovic asked them what variances they are requesting.

Mrs. Van Kampen replied a side yard variance of 7.5 ft. to five foot, width and overall lot sq. ft. area does not meet the requirements. Mrs. Van Kampen also states their purchase of lot is contingent on the approval of the variance request.

Mrs. Murovic stated this was the Van Kampens' opportunity to state anything else they would like to.

Mrs. Van Kampen said they would have a meeting with the draft person tomorrow, they are looking to build a 1500 sq. ft. ranch with a basement and an attached garage.

Mrs. Murovic opened the Public hearing.

Mr. John Bach who is Public Works Director introduced himself. He states the lot the Van Kampens' are requesting the variance on is owned by the Sanitary District/Town of Highland and that particular lot was subdivided years ago when the zoning code was much less restrictive. He states every house in that neighborhood has the same side yard setback five (5) feet, a lot width of sixty (60) foot and same lot square footage. Mr. Bach states that the home that was previously on that property was destroyed several years ago and the Town of Highland purchased the property. He states the Town installed a drain in the back as that there were some drain issues.

Mr. Tom Beck of 9134 O'Day Dr., Highland, In spoke. He asked Mr. Bach how the Town could assure that when the house was being built the heavy equipment involved in the building of the

house would not affect the foundation of the properties on either side as the foundations are made of cinder block.

Mrs. Van Kampen replied they were going to have a licensed contractor build the house and she would assume the contractor would know of all the requirements involved. Mr. Beck asked if there would be any additional precautions required due to the proximity of how close the house was being built to the surrounding properties. He states that he has had from a similar previous experience with his parent's property who had the same foundation and when heavy equipment was brought in, the equipment broke the cinder blocks and there was a battle with the contractors for seven (7) years trying to get fixed and repaired. Mr. Beck then inquired again as to a game plan to keep the same thing from happening at this location. Mr. Beck mentioned that this particular area has had flooding issues and the street still floods there.

Mr. Mika stated there is no guarantee that due to excavation that there is not going to be disruption of neighboring properties His suggestion is that prior to construction that not only the contractor survey the existing foundations and based on videotaping and photographing to show what the circumstance were prior to construction and then anything that happens afterwards needs to be worked out between those two (2) parties. As far as the drainage Mr. Mika suggested to have an engineer submit a drainage plan to the Town that would be reviewed by the Town engineer taking into account that especially if there is issues with existing drainage issues in the surrounding area and try to mitigate those prior to getting a building permit.

Mr. Grzymiski asked Mr. Bach if the Town/Sanitary Board added another sewer line to this piece of property. Mr. Bach replied that for years that the homes on Laverne Drive have had a barrier for water to run off the ridge and that was the reason for the former damage and that the intent that when the lot was bought along with another property to install a storm drain. Mr. Bach states there is a drain in the back yard that will drain that property and as long as the grading for the other properties are sloped that drainage issue is not a problem.

Mrs. Murovic then closed the Public Hearing.

Mr. Martini suggested to the Van Kampen's that they work with the contractor to explain to the contractor from the start what was discussed at this meeting and to take photographs and he assumed the basement would have a poured concrete wall and not be made of cinder block.

Mr. Martini motioned to grant the variance request for minimum lot requirement/overall lot size, width and side yard setback. Mr. Grzymiski seconded and it unanimously passed with a roll call vote of 4-0.

Second Continued Public Hearing request for Jacqueline & Cosme Herrera, 8112 Wicker Park Dr., requesting a variance to exceed accessory structure allowance and location of shed on side yard property line. {HMC 18.05.060 (F)(5)} In Zoning District R-1A, R-1, R-2, or R-3. The summation of the gross floor area of all accessory structures shall not exceed the gross floor area of the principal structure, or 720 square feet, whichever is less. Mr. Grzymiski motioned to continue the Public Hearing request to the March 22, 2017 BZA meeting. Mr. Martini seconded and it passed with a roll call vote of 3-1. Mr. Mileusnich voted against the 2nd Public Hearing request.

Preliminary Hearing request for F&G Investments, L.P., 2635 169th St., Hammond, IN, represented by Attorney Glenn Patterson, 300 E. 90th Dr., Merrillville, IN requesting a Use Variance for a cemetery at the address of 8939 Kleinman Rd. {HMC.18.35.040}The following

listed uses and no others are permitted uses in a B-1 district: Permitted uses do not include a cemetery.

Mr. Patterson introduced himself and also introduced Mr. Frank Van Til who is one of the principal petitioners.

Mr. Patterson said the property was acquired with the purpose of donating it to the Hope Cemetery and having acquired and learned of its existing zoning classification, the ordinance was researched and discovered cemetery usage is not mentioned anywhere in the ordinance. After a consultation with the Town Council and Building Commissioner Ken Mika, it was recommended that the petitioners seek a Use Variance so the land can be donated to the cemetery.

Mr. Grzymski motioned to grant the Public Hearing request. Mr. Martini seconded and unanimously passed with a roll call vote of 4-0.

Preliminary Hearing request for Vyto's Pharmacy, 8845 Kennedy Ave., represented by Nathan Damasius, 6949 Kennedy Ave., Hammond, IN requesting a variance to exceed sign allowance {HMC 18.85.080 (G)(2)(a) Each occupancy shall be permitted a maximum of one sign.

Mr. Damasius introduced himself. His sign variance request is for an additional 14'H x 11'W building mounted sign for the main entrance on the south side of the new building. He said they will have a building mounted sign on the north side and a free standing sign.

Mrs. Murovic requested representations of what the two other signs going on the building would be and total square footage for all signs.

Mr. Grzymski motioned to grant the Public Hearing request. Mr. Martini seconded and the motion passed with a unanimous roll call vote of 4-0.

Preliminary Hearing for Stephen Adams, 9149 Woodward Ave. Highland, IN requesting a variance to move fence beyond build line. Property is on a corner. {HMC 18.05.060}(G)(5)(a) Permitted Obstruction in Required Yards. The following shall not be considered to be obstructions when located in the required yards specified: (a) In All Yards. Ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not to exceed 12 inches; open terraces or decks not over four feet above the average level of the adjoining ground but not including a permanent roofed-over terrace or porch and not including terraces or decks which project into the required front yard by more than six feet from the front of the principal structure; awnings and canopies; steps which are necessary for access to a permitted building or for access to a zoning lot from a street or alley; chimneys projecting 18 inches or less into the yard; arbors, trellises and flagpoles; fences, screens, hedges and walls; provided, that in residential districts no fence or wall shall be located in the required front yard and no landscaped screen or hedge shall exceed three feet six inches in height if located in the front yard, and no fence, landscaped screen, hedge or wall shall exceed six feet in height if located in a side or rear yard. On a corner or reverse corner lot, the side yard setback shall be the same as the front yard setback on adjoining lots; fences shall not be installed beyond this point. No fence, screen, hedge or wall shall interfere with line of sight requirements for local streets or intersections. No fence, screen, hedge or wall shall be constructed of material that may be described as rubble, cardboard, chicken wire, trees and brush, corrugated tin, utility poles, railroad ties, barbed wire, broken glass or electrified material. The design, location and construction of a fence or wall shall be approved by the building commissioner prior to the issuance of a building permit.

Mr. Adams introduced himself. He is requesting to move his fence line out. He states that his variance request is nothing out of the ordinary that there are twenty-one other properties close by that have the same fence line. He distributed a diagramed handout of other properties with the same fence lines. He is making his request for safety reasons as his fence is too close to his driveway and he cannot move his cars in and out of his driveway easily and he states his dog cannot attend dog parks as his dog was abused when the dog was little, so this will give his dog additional green space as well.

Mrs. Murovic advised Mr. Adams to keep in mind that the other fences he referred to are considered legal non-conforming and probably put up prior to the ordinance change.

Mr. Martini requested Mr. Adams to bring photographs of his property to the Public Hearing.

Mr. Martini motioned to grant the Public Hearing. Mr. Mileusnich seconded and it unanimously passed with a roll call vote of 4-0.

BUSINESS FROM THE FLOOR: None

ADJOURNMENT: Motion: Mr. Martini Second: Mr. Grzymiski Time: 7:10 p.m.

